

THE HONOURABLE SHRI JUSTICE K.C. BHANU

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WRIT PETITION NO.10973 OF 2001

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DATED THIS THE 16TH DAY OF AUGUST, 2005.

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Between:

1. K. Baslaswamy Reddy S/o Chinnappa Reddy,

aged 40 years Occ: Teacher.

2. Y. Showri Reddy S/o Anthoni Reddy,

aged 41 years Occ: Teacher

3. N. Subba Rao S/o N. Yerllamanda,

aged 54 years Occ: Teacher

4. T. Joseph Prasad S/o T. Isaiah, aged 44 years

Occ: Teacher.

(All the petitioners are the Teachers in St.Theresa's

High School at Ongole, Prakasam District.) ... Petitioners.

And

Government of Andhra Pradesh,

Represented by its Secretary,

Education Department,

Secretariat, Hyderabad, and others. ...Respondents.

This writ petition is filed seeking a writ, order or direction, directing the respondents to release the arrears of grant-in-aid along with interest accrued till date to the petitioners from 1.6.1985 to 31.10.1989 as per the scale applicable to the Grant-in-Aid post of B.Ed., Assistants and Secondary Grade Teachers with all consequential benefits and to declare the action of the respondents in not paying the arrears of salaries due to the petitioners and not including the names of the petitioners in G.O.Ms.No.144, Education (PS-2) Department, dated 4.11.2000 for the release of teaching arrear grants even after the dismissal of the Civil Appeal filed by the Government, as illegal, improper and arbitrary and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The brief averments of the petition are that the petitioners, after being appointed on different dates, are discharging their duties to the utmost satisfaction of all concerned. By issuing G.O.Ms.No.344, Education, dated 22.7.1985, Government of Andhra Pradesh admitted all the institutions which were opened prior to 1.4.1977 to grant-in-aid with effect from 1.6.1985. The selection of the petitioners made under process of selection was approved by the District Educational Officer, Ongole, vide proceedings dated 16.1.1982 and at the time of their initial appointment their posts were not admitted to grant-in-aid, which were, however, admitted to grant-in-aid from 1.6.1985 by the application of G.O.Ms.No.344, dated 22.7.1985.

Pursuant to the Judgment of this Court in WA No.1961` of 1972 of 1988 dated 19.11.1988 a High Level Committee to review the situation and reconsidering the

cases of all the private educational institutions was constituted and on the recommendations of the High Level Committee, the Government has issued G.O.Ms.No.326 dated 17.10.1985, by which certain institutions, three posts of B.Ed., Assistants and one post of Secondary Grade Teacher were admitted to grant-in-aid with the release of grant-in-aid simultaneously from 1.11.1989 to 29.2.1990. Though it was stated in the said G.O. that order regarding arrears will be issued separately, but no such order was issued and on the other the petitioners were informed by the respondents, on their persistent enquiries, that the Government is not in a position to pay the arrears of grant-in-aid in view Act 34/95, which was declared as ultra vires by this Court. As the Government was not taking any action in this regard, the petitioners' school filed WP No.24263/96 seeking a direction to the respondents to release the arrears of salary to the petitioners from 1.6.1985 to 31.10.1989 and after hearing both the sides this Court vide its order dated 18.11.1996 allowed the same and directed the respondents to issue separate orders for payment of arrears of grant-in-aid to the petitioners within a period of three months from the date of receipt of the said order, which order became final as the same has neither been suspended nor set aside.

Meanwhile the Government preferred Civil Appeal against the order in WA No.1745 of 1995 and as and when the petitioners made representations and filed contempt cases for the implementation of the order of this Court in WP No.24263 of 1996 the respondents used to inform the Court about the pendency of the Civil Appeal in the Apex Court and in fact the Apex Court vide Judgment dated 7.8.2000 dismissed the Civil Appeal and directed the Government to release the grant-in-aid. Even after the dismissal of the Civil Appeal the respondents have not taken any action till today so as to implement the orders passed by this Court in WP No.24263/96 and the respondents are releasing grant-in-aid whenever contempt cases are filed.

The action of the respondents in not including the petitioners' names in G.O.Ms.No.144, Education (PS-2) Department, dated 4.11.2000 for grant-in-aid and not implementing the directions passed by this Court even after the dismissal of Civil Appeal, is illegal, improper and arbitrary besides violative of Article 14 of the Constitution of India. Hence, they filed this writ petition.

No counter has been filed by the respondents.

Learned counsel for the petitioners contended that the cause of action arose after

issuance of G.O.Ms.No.144 Education (PS-2) Department, dated 4.11.2000, which was issued on the positive direction given by this Court in WP No.24263/96 and the dismissal of Civil Appeal by the Apex Court. He further contended that a positive direction was given by this Court after considering the matter directing the respondents to pay the salaries. However, the order of this Court has not been implemented.

The remedy is otherwise and the petitioners cannot be permitted to file writ petition after writ petition for the same relief. It is, however, contended by the learned counsel for the petitioner that G.O.No.144 dated 4.11.2000 was issued releasing certain amounts of arrears of teaching grant in respect of certain schools as mentioned in the said G.O. That is nothing to do with the issue involved in this writ petition. The remedy of the writ petitioners is otherwise but not certainly filing another writ petition for the same relief. Therefore, the writ petition is devoid of merits and it is accordingly dismissed. No costs.

Dt.16.08.2005. K.C. BHANU, J

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